

ATTACHMENT D

Jonathan Silver

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January 27, 2020

Magistrate Judge Steven M. Gold
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Gursewak Singh v Lintech Electric Inc., et al
United States District Court EDNY 18 CV5780

Dear Magistrate Gold:

The plaintiff is submitting this letter to make application to extend the time of discovery and other relief.

A little history first. The parties had a conference before Your Honor on June 27, 2019 and defendants were directed to "...produce all documents in their custody, possession, or control by July 10, 2019, and be precluded from relying in any way in this litigation on any documents, other than those obtained from others and promptly produced to plaintiff, not produced by that date."

The defendant produced documents but that did not include any wage check alleged to have been issued to the plaintiff.

Defendant Tudor was deposed on September 23, 2019. As of that date, defendants had still not produced any wage check.

On October 7, 2019 I received an email from defendant's counsel with more documents from defendants. 175 wage stubs were for the first time being provided and a 3 page summary from defendants accountant titled "employee detail for LINTECH ELECTRIC INC." listing various payments to plaintiff during 2016-2017. Attachment 1

I wrote to defendant's counsel as his disclosure was made after the deadline imposed by the Court and to confirm that still not a

single check was provided. A follow up letter on October 31, 2019 to confirmed no checks have been provided. Attachments 2 and 3

Counsel next appeared in Court on November 5, 2019 and defendants now wanted to again depose plaintiff based on the additional records defendant had "newly located" and exchanged and the Court granted that request.

As defendants had still not produced a single check, there was then no need to conduct a further deposition of Mr. Tudor as my client when questioned denied that he had signed any of the time sheets or received any of the wage stubs produced by defendants.

Later, another email was received from defendant's counsel on December 23, 2019. with a Dropbox link containing "Defendants' supplemented document production." Attachment 4.

A screen shot was taken which is Attachment 5. You can see 7 images of categories of documents. There were no checks among the documents provided even though one category is defined as "Cashed checks." All that was contained was the accountant's summary.

A telephone conference was held on January 15, 2020. The Court was advised that I had still had not received any checks although counsel for defendant said that he had produced them by his email of December 23, 2019.

Later that day, I received an email from defendant's counsel, again with a Dropbox link and I reviewed what had been provided. This time the screen shot taken shows 8 images. Attachment 6.

Now, among the documents produced were copies of checks, both sides, with dates in 2016-2017, in the name of the plaintiff with the initials "G. S." on the reverse side. Only one of those checks had any markings indicating that it had been deposited or cashed or what bank that had occurred. See Attachment 7 with

examples. A single check provided that was payable to plaintiff was signed and deposited by "Gurpreet Singh." Attachment 8

My client was presented by this office with the checks written to his name and denies he received or initialed the checks on the reverse side.

Assuming arguendo that the checks were not actually given to my client and not endorsed by him, it is now essential to learn what the banking records of the defendants show as to how and when those checks were actually drawn, when they were actually cashed, by whom and what the bank records of the defendants show to reflect if those checks were actually paid and when. There is an essential conflict between what the plaintiff and defendants claim and obtaining the bank records will help uncover the actual facts. Counsel for plaintiff was asked to consent to have his client produce the complete bank records and for Mr. Tudor to appear for further deposition but has refused to give consent.

Plaintiff seeks an extension of time to complete discovery and to compel discovery as follows:

1) An Order that defendants produce all banking record including account statements and other records for the period of employment alleged including the period that the checks produced are alleged to have been being written, endorsed or cashed;

2) that if any of those records are not provided that plaintiff be given time to subpoena the bank records directly;

3) that defendant then be subject to further deposition at defendants' cost.

Respectfully submitted,


JONATHAN SILVER

JS/eb

Attachment 1

From: Jason Mizrahi <Jason@levinepstein.com>
To: Juanplata@aol.com <juanplata@aol.com>
Cc: Joshua Levin-Epstein <Joshua@levinepstein.com>
Subject: Singh v. Lintech Electric, Inc. et al (18-cv-5780)
Date: Mon, Oct 7, 2019 12:24 pm

Jonathan,

Below, please find a courtesy link to the Dropbox folder, containing Defendants' supplemented bate-stamped document production.

https://www.dropbox.com/sh/463gdcbb1of8bza/AADt08WhdTzAL2eZB6_v14kZa?dl=0

Thank you

Jason

Jason Mizrahi, Esq.
Levin-Epstein & Associates, P.C.
1 Penn Plaza, Suite 2527

New York, NY 10119
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Email: Jason@levinepstein.com

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Attachment 2

By reg mail and by email to Jason@levinepstein.com

October 7, 2019

Levin Epstein & Associates, P.C.
One Penn Plaza, Suite 2527
New York, New York 10119
Attn: Joshua Levin-Epstein, Esq.

Re: Gursewak Singh v Lintech Electric, Inc. et al
Case No.: 1:18-cv-05780

Dear Mr. Levin-Epstein:

I received today an email from your office dumping on me documents totaling about 1000 pages.

I do not know if these are all new documents or just some of them are new. Can I be advised what is new among what you just sent me.

I do note that there is a 3 page "EMPLOYEE DETAIL for LINTECH ELECTRIC INC." It reportedly covers the period 2016 and 2017. That document appears to be issued by JOSEPH TAX & CONSULTING SERVICE. That was the accountant your client identified during his Sept 24, 2019 deposition.

I also note there are close to 175 payroll check stubs with my client's name on it. But, there is not one single check with my client's name on it nor is there any check allegedly to have been endorsed by my client. Does your client have such checks?

Most importantly, this disclosure comes only after the deposition of your client was held on September 24, 2019. Your client had testified that he had not even searched his records to see what documents he had concerning my client and admitted that he had not even contacted his accountant for the same purpose.

As I will be leaving on vacation and will be away October 12, 2019-October 26, 2019 and the deadline for completion of discovery is October 25, 2019 I am requesting your consent to extend the discovery deadline so that your client can complete his search for records and upon that completion I continue your client's deposition.

In view of the limited time we have before my vacation starts, I will give you until tomorrow morning to indicate your consent to the extension and your indication when the other searches will be completed and documents produced.

I await your response.

Very truly yours,

JONATHAN SILVER

js/mm

Attachment 3

By email to Jason@levinepstein.com

October 31, 2019

Levin Epstein & Associates, P.C.
One Penn Plaza, Suite 2527
New York, New York 10119
Attn: Joshua Levin-Epstein, Esq.

Re: Gursewak Singh v Lintech Electric, Inc. et al
Case No.: 1:18-cv-05780

Dear Mr. Levin-Epstein:

As you will recall, on October 7, 2019 I received from your office an email dumping on me documents totaling about 1000 pages.

The Court had previously issued an Order under Docket Number 23 directing, in relevant part, as follows:

Minute Order: Motion Hearing held on 6/27/2019 before Magistrate Judge Steven M. Gold. Silver for plaintiff, Mizrahi for defendants. The parties' discovery motions 20 are granted in part and denied in part for the reasons stated on the record. Defendants will produce all documents in their custody, possession, or control by July 10, 2019, and be precluded from relying in any way in this litigation on any documents, other than those obtained from others and promptly produced to plaintiff, not produced by that date.

The deposition of the defendants were taken on September 24, 2019, long before the October 7, 2019 date.

Among the documents dumped, were a 3 page "EMPLOYEE DETAIL for LINTECH ELECTRIC INC." prepared by your client's accountant that was never prior

exchanged as well as close to 175 payroll check stubs with my client's name on it that also were never prior exchanged.

But, still there is not one single check with my client's name on it nor is there any check allegedly to have been endorsed by my client.

Even more outrageous is the fact that your client testified that he had not even searched his records to see what documents he had concerning my client and that he had not even contacted his accountant for the same purpose.

I wrote you a letter on October 7, 2019 concerning these issues and you have not provided any substantive response with the exception that you rejected my request to conduct a further deposition of your client following his having conducted the searches he has yet to conduct and provided what else he may have uncovered from those searches.

These issues will be brought up before Magistrate Gold when we appear next week.

I await your response.

Very truly yours,

JONATHAN SILVER

js/mm

Attachment 4

From: Jason Mizrahi
Sent: Monday, December 23, 2019 1:32 PM
To: juanplata@aol.com
Cc: Joshua Levin-Epstein <Joshua@levinepstein.com>
Subject: Singh v. Lintech Electric, Inc. et al (18-cv-5780)

Jonathan,

This office is counsel to Defendants Lintech Electric, Inc. (the “**Company**”), and Linden J. Tudor (collectively, the “**Defendants**”) in the above-referenced matter.

Enclosed hereto, please find a link to the Dropbox folder containing Defendants’ supplemented document production.

Thank you,

Jason

https://www.dropbox.com/sh/463gdcbb1of8bza/AADt08WhdTzAL2eZB6_vl4kZa?dl=0

Jason Mizrahi, Esq.
Levin-Epstein & Associates, P.C.
1 Penn Plaza, Suite 2527

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Attachment 5

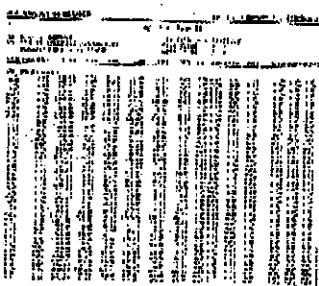


Sign in

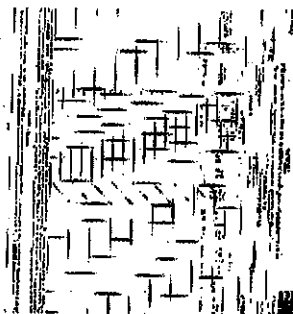
Download ▾

Singh v. Lintech Electric, Inc. et al (18-cv-5780)

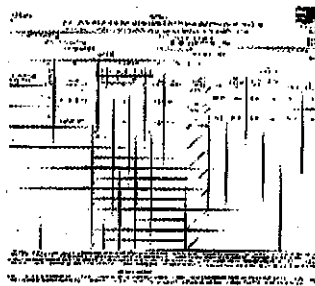
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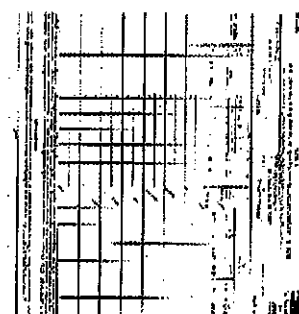
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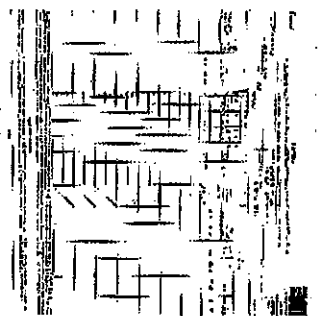
Payroll package.pdf



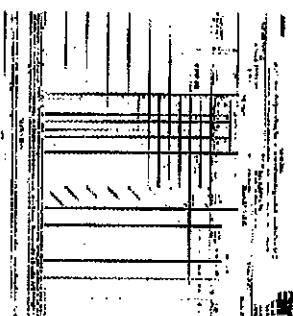
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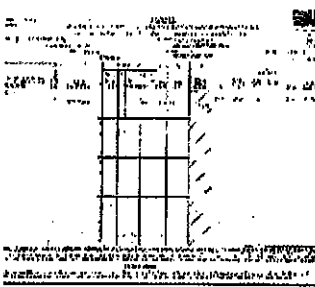
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scan0199.pdf



Singh Payroll Records
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Attachment 6

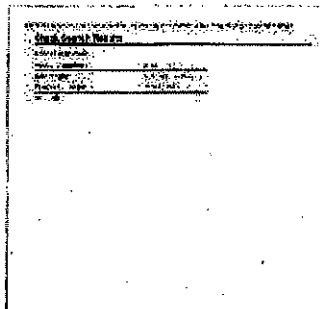


Sign in

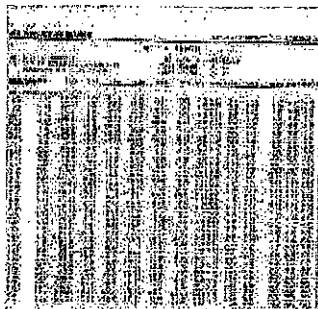
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Singh v. Lintech Electric, Inc. et al (18-cv-5780)

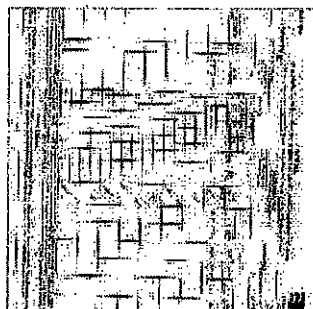
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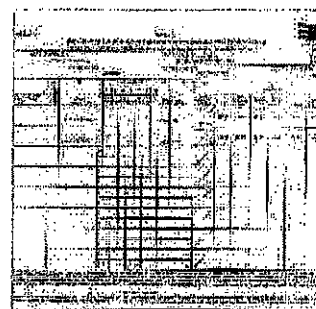
Cashed Checks
[Combined].pdf



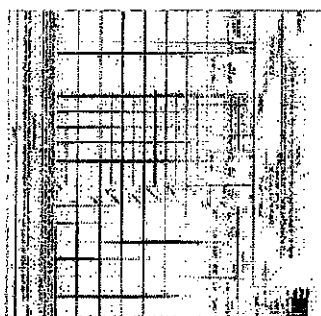
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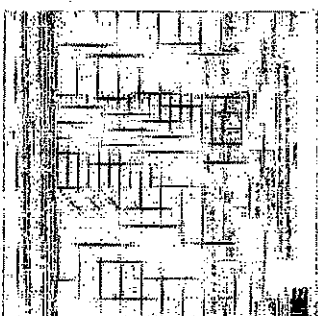
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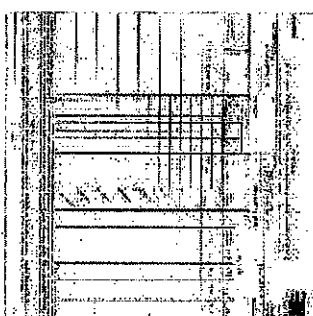
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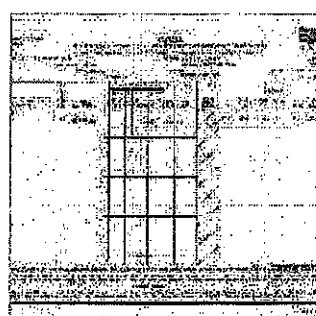
scan0197.pdf



scan0198.pdf



scan0199.pdf



Singh Payroll Records
[BS].pdf

Attachment 7

Post date: 01/26/2017
 Amount: \$ 514.00

Account: [REDACTED]
 Check Number: 2440

CHASE BANK N.A.
 2440

DATE 1/10/2017 AMOUNT \$514.00

PAID TO THE ORDER OF Five Hundred and fourteen dollars

Memo Johnson Haines Cullen \$7,500 monthly of fees

LINTECH ELECTRIC INC.
 3005 TILDEN AVE.
 BROOKLYN, NY 11225-5108

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 * VOID FOR FEDERAL RESERVATION USE *

ENDORSE HERE
ES

DO NOT SIGN, STAMP OR SIGN BELOW THIS LINE
 * VOID FOR FEDERAL RESERVATION USE *

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 * VOID FOR FEDERAL RESERVATION USE *

Attachment 8

Post date: 03/21/2017
Amount: \$ 387.40

Account: [REDACTED]
Check Number: 2594

LINTECH ELECTRIC INC. 09-09 2594
3609 TILDEN AVE.
BROOKLYN, NY 11226-8108
03/22/2017
Pay to the order of Gurpreet Singh \$ 387.40
Three hundred & eighty seven and 00/100
CHASE
JPMorgan Chase Bank, N.A.
New York, NY
Signature: [REDACTED]
Date: 03/22/2017

13 NOT VALID FOR DEPOSIT INTO LINE
FOR DEPOSIT ONLY -
Gurpreet Singh
CASH SAVE

Jonathan Silver

Attorney at Law

--

of Counsel

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Jennifer Beinert

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80-02 New Gardens Road, Suite # 316, New Gardens, NY 11415

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juanplata@aol.com

October 20, 2020

Magistrate Judge Steven M. Gold
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Gursewak Singh v Lintech Electric Inc., et al
United States District Court EDNY 18 CV5780

Dear Magistrate Gold:

This is the second motion by plaintiff to compel discovery.

The parties last conducted a telephone conference with the Court on September 22, 2020.

The parties agreed and the Court directed the following: that the deposition of the parties would be conducted in person; that defendant would be deposed on October 12, 2020; plaintiff deposed on October 21, 2020; plaintiff would provide further discovery responses by October 5, 2020.

On October 8, this office emailed counsel and asked:

please advise if you will be proceeding with the deposition of the defendant on Oct 12 as directed by the Court as I need to book it without delay

Jonathan

I received an email from counsel who stated:

Jonathan,

My client cannot accommodate Monday, December 12, 2020.

However, he can accommodate Thursday, December 15,
2020.

Jason

I responded:

I am not available that day suggestions?

Jonathan,

Counsel advised:

I can coordinate for a virtual deposition to be held on Tuesday
(10/13) or Friday (10/16)

Or we can schedule it for Tuesday (10/20).

Jason

I reminded counsel

we have agreed to an in person

is that what you are proposing for 10/20?

I heard back from counsel who said

Correct.

I'd ask that we schedule it around a telephonic court
appearance i have that day at 10:00 am. But otherwise I can accommodate.

Jason

Having now agreed to the October 20 date for the defendants in-
person deposition, a request was made for plaintiff to have until October 13 to
provide further discovery responses and counsel agreed. The responses were
provided.

On October 19, an attempt to confirm that the deposition was
proceeding the next day,

The response was counsel served Defendants' Responses &
Objection to Plaintiff's Notice of Deposition. A copy is attached.

Counsel also indicated that: we don't believe it is appropriate to
move forward with tomorrow's deposition and that
we are willing to accommodate Tuesday, October 27, 2020.

Counsel raised an issue of plaintiff's failure to provide "reasonable written notice" and that the deposition was being conducted without restriction as to one day for 7 hours smacks of a intentional effort, in bad faith, to hinder and delay the conduct of defendants deposition.

It is requested that counsel be sanctioned; that defendant be directed to appear on a date certain for deposition on November 2,4,9,10 or 11 and that failing that any testimony and/or evidence by the defendants be precluded for all purposes and/or their answer stricken.

The Court is respectfully advised that I am on my way upstate to be present for my daughter's surgery and I have not yet responded to defendants pending motion.

I ask leave to have until Monday to do so.

Respectfully submitted,

JONATHAN SILVER

JS/eb

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
GURSEWAK SINGH

Plaintiff,

-against-

LINTECH ELECTRIC, INC., LINDEN J. TUDOR

Defendants.
-----X

Case No.: 1:18-cv-05780

**DEFENDANTS'
RESPONSES &
OBJECTION STO
PLAINTIFF'S NOTICE
OF DEPOSITION**

PLEASE TAKE NOTICE THAT, Pursuant to Fed. R. Civ. P. 30, and the applicable Rules of the United States District Court for the Eastern District of New York, that Defendants Lintech Electric, Inc., and Linden J. Tudor, (together, the "**Defendants**"), by and through their attorneys, Levin-Epstein & Associates, P.C., hereby respond and object to Plaintiff's notice to take the deposition of Linden J. Tudor on October 20, 2020, on the grounds that: (i) Plaintiff's notice of deposition fails to provide Defendants with "reasonable written notice" pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure; (ii) Plaintiff seeks to take the deposition in-person and without being restricted to the one day of seven hour time limitation; (iii) Plaintiff's notice of deposition is a nullity in light of the pending Motion for Sanctions [Dckt. No. 89] filed on October 16, 2020.

Dated: October 19, 2020
New York, New York

By: /s/ Jason Mizrahi
Jason Mizrahi, Esq.
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New York, New York 10170
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Attorneys for Plaintiff